

106TH CONGRESS  
2D SESSION

# S. 2964

To amend the Internal Revenue Code of 1986 to provide new tax incentives to make health insurance more affordable for small businesses, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 27, 2000

Ms. COLLINS (for herself and Ms. LANDRIEU) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide new tax incentives to make health insurance more affordable for small businesses, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Access to Affordable  
5       Health Care Act”.

6       **SEC. 2. FINDINGS AND PURPOSE.**

7       (a) FINDINGS.—Congress makes the following find-  
8       ings:

1           (1) More than 44,000,000 Americans,  
2           11,000,000 of whom are children, currently lack  
3           health insurance.

4           (2) According to the Health Insurance Associa-  
5           tion of America (HIAA), almost 7 out of 10 Ameri-  
6           cans live in a family whose head of household works  
7           full-time.

8           (3) The great majority of the uninsured are  
9           members of families with at least 1 full-time worker.

10          (4) Nearly half of the uninsured workers are in  
11          firms with fewer than 25 employees.

12          (5) Small employers generally face higher costs  
13          for health insurance than do larger firms, which  
14          makes small firms less likely to offer coverage.

15          (6) According to the Congressional Budget Of-  
16          fice, only 42 percent of small-firm establishments  
17          with fewer than 50 employees offer health insurance  
18          to their employees.

19          (7) The smaller the firm size, the less likely it  
20          is to offer coverage. According to the Employee Ben-  
21          efit Research Institute (EBRI), in 1998, among pri-  
22          vate sector workers in firms with fewer than 10 em-  
23          ployees, 27.4 percent received health insurance from  
24          their employers in their own name, compared with

1       66.5 percent of workers in firms with 1,000 or more  
2       employees.

3       (b) PURPOSE.—The purpose of this Act is to provide  
4       new tax incentives to make health insurance more afford-  
5       able for small businesses, thus encouraging those busi-  
6       nesses that do not currently offer health insurance to do  
7       so and discouraging businesses that currently do offer  
8       health insurance from dropping coverage because of rising  
9       costs.

10   **SEC. 3. CREDIT FOR EMPLOYEE HEALTH INSURANCE EX-**  
11                   **PENSES.**

12       (a) IN GENERAL.—Subpart D of part IV of sub-  
13       chapter A of chapter 1 of the Internal Revenue Code of  
14       1986 (relating to business-related credits) is amended by  
15       adding at the end the following:

16   **“SEC. 45D. EMPLOYEE HEALTH INSURANCE EXPENSES.**

17       “(a) GENERAL RULE.—For purposes of section 38,  
18       in the case of an employer, the employee health insurance  
19       expenses credit determined under this section is an  
20       amount equal to the applicable percentage of the amount  
21       paid by the taxpayer during the taxable year for qualified  
22       employee health insurance expenses.

23       “(b) APPLICABLE PERCENTAGE.—For purposes of  
24       subsection (a), the applicable percentage is equal to—

1           “(1) 50 percent in the case of an employer with  
2           less than 10 employees, and

3           “(2) 30 percent in the case of an employer with  
4           more than 9 but less than 26 employees.

5           “(c) PER EMPLOYEE DOLLAR LIMITATION.—The  
6           amount of qualified employee health insurance expenses  
7           taken into account under subsection (a) with respect to  
8           any qualified employee for any taxable year shall not  
9           exceed—

10           “(1) \$2,000 in the case of self-only coverage,  
11           and

12           “(2) \$4,000 in the case of family coverage (as  
13           so defined).

14           “(d) SPECIAL RULES AND DEFINITIONS.—For pur-  
15           poses of this section—

16           “(1) DETERMINATION OF EMPLOYMENT.—

17           “(A) IN GENERAL.—An employer shall be  
18           considered an employer described in paragraph  
19           (1) or (2) of subsection (b) if such employer  
20           employed an average of the number of employ-  
21           ees described in such paragraph on business  
22           days during either of the 2 preceding calendar  
23           years. For purposes of the preceding sentence,  
24           a preceding calendar year may be taken into ac-

1 count only if the employer was in existence  
2 throughout such year.

3 “(B) EMPLOYERS NOT IN EXISTENCE IN  
4 PRECEDING YEAR.—In the case of an employer  
5 which was not in existence throughout the 1st  
6 preceding calendar year, the determination  
7 under subparagraph (A) shall be based on the  
8 average number of employees that it is reason-  
9 ably expected such employer will employ on  
10 business days in the current calendar year.

11 “(2) QUALIFIED EMPLOYEE HEALTH INSUR-  
12 ANCE EXPENSES.—

13 “(A) IN GENERAL.—The term ‘qualified  
14 employee health insurance expenses’ means any  
15 amount paid by an employer for health insur-  
16 ance coverage to the extent such amount is at-  
17 tributable to coverage provided to any employee  
18 while such employee is a qualified employee.

19 “(B) EXCEPTION FOR AMOUNTS PAID  
20 UNDER SALARY REDUCTION ARRANGEMENTS.—  
21 No amount paid or incurred for health insur-  
22 ance coverage pursuant to a salary reduction  
23 arrangement shall be taken into account under  
24 subparagraph (A).

1 “(C) HEALTH INSURANCE COVERAGE.—

2 The term ‘health insurance coverage’ has the  
3 meaning given such term by section 9832(b)(1).

4 “(3) QUALIFIED EMPLOYEE.—

5 “(A) IN GENERAL.—The term ‘qualified  
6 employee’ means, with respect to any period, an  
7 employee of an employer if the total amount of  
8 wages paid or incurred by such employer to  
9 such employee at an annual rate during the  
10 taxable year is not less than \$5,000.

11 “(B) TREATMENT OF CERTAIN EMPLOY-  
12 EES.—For purposes of subparagraph (A), the  
13 term ‘employee’—

14 “(i) shall not include an employee  
15 within the meaning of section 401(c)(1),  
16 but

17 “(ii) shall include a leased employee  
18 within the meaning of section 414(n).

19 “(C) WAGES.—The term ‘wages’ has the  
20 meaning given such term by section 3121(a)  
21 (determined without regard to any dollar limita-  
22 tion contained in such section).

23 “(e) CERTAIN RULES MADE APPLICABLE.—For pur-  
24 poses of this section, rules similar to the rules of section  
25 52 shall apply.

1       “(f) DENIAL OF DOUBLE BENEFIT.—No deduction  
 2 or credit under any other provision of this chapter shall  
 3 be allowed with respect to qualified employee health insur-  
 4 ance expenses taken into account under subsection (a).”.

5       (b) CREDIT TO BE PART OF GENERAL BUSINESS  
 6 CREDIT.—Section 38(b) of the Internal Revenue Code of  
 7 1986 (relating to current year business credit) is amended  
 8 by striking “plus” at the end of paragraph (11), by strik-  
 9 ing the period at the end of paragraph (12) and inserting  
 10 “, plus”, and by adding at the end the following:

11               “(13) the employee health insurance expenses  
 12 credit determined under section 45D.”.

13       (c) NO CARRYBACKS.—Subsection (d) of section 39  
 14 of the Internal Revenue Code of 1986 (relating to  
 15 carryback and carryforward of unused credits) is amended  
 16 by adding at the end the following:

17               “(9) NO CARRYBACK OF SECTION 45D CREDIT  
 18 BEFORE EFFECTIVE DATE.—No portion of the un-  
 19 used business credit for any taxable year which is  
 20 attributable to the employee health insurance ex-  
 21 penses credit determined under section 45D may be  
 22 carried back to a taxable year ending before January  
 23 1, 2001.”.

24       (d) CLERICAL AMENDMENT.—The table of sections  
 25 for subpart D of part IV of subchapter A of chapter 1

1 of the Internal Revenue Code of 1986 is amended by add-  
 2 ing at the end the following:

“Sec. 45D. Employee health insurance expenses.”.

3 (e) EFFECTIVE DATE.—The amendments made by  
 4 this section shall apply to amounts paid or incurred in tax-  
 5 able years beginning after December 31, 2000.

6 **SEC. 4. DEDUCTION FOR HEALTH AND LONG-TERM CARE**  
 7 **INSURANCE COSTS OF INDIVIDUALS NOT**  
 8 **PARTICIPATING IN EMPLOYER-SUBSIDIZED**  
 9 **HEALTH PLANS.**

10 (a) IN GENERAL.—Part VII of subchapter B of chap-  
 11 ter 1 of the Internal Revenue Code of 1986 is amended  
 12 by redesignating section 222 as section 223 and by insert-  
 13 ing after section 221 the following new section:

14 **“SEC. 222. HEALTH AND LONG-TERM CARE INSURANCE**  
 15 **COSTS.**

16 “(a) IN GENERAL.—In the case of an individual,  
 17 there shall be allowed as a deduction an amount equal to  
 18 the applicable percentage of the amount paid during the  
 19 taxable year for insurance which constitutes medical care  
 20 for the taxpayer and the taxpayer’s spouse and depend-  
 21 ents.

22 “(b) APPLICABLE PERCENTAGE.—For purposes of  
 23 subsection (a), the applicable percentage shall be deter-  
 24 mined in accordance with the following table:



<b>“For taxable years beginning in calendar year—</b>	<b>The applicable percentage is—</b>
2001, 2002, 2003 .....	25
2004 and 2005 .....	50
2006 and thereafter .....	100.

1       “(c) LIMITATION BASED ON OTHER COVERAGE.—

2               “(1) COVERAGE UNDER CERTAIN SUBSIDIZED  
3       EMPLOYER PLANS.—

4               “(A) IN GENERAL.—Subsection (a) shall  
5       not apply to any taxpayer for any calendar  
6       month for which the taxpayer participates in  
7       any health plan maintained by any employer of  
8       the taxpayer or of the spouse of the taxpayer if  
9       50 percent or more of the cost of coverage  
10      under such plan (determined under section  
11      4980B and without regard to payments made  
12      with respect to any coverage described in sub-  
13      section (e)) is paid or incurred by the employer.

14              “(B) EMPLOYER CONTRIBUTIONS TO CAF-  
15      ETERIA PLANS, FLEXIBLE SPENDING ARRANGE-  
16      MENTS, AND MEDICAL SAVINGS ACCOUNTS.—  
17      Employer contributions to a cafeteria plan, a  
18      flexible spending or similar arrangement, or a  
19      medical savings account which are excluded  
20      from gross income under section 106 shall be  
21      treated for purposes of subparagraph (A) as  
22      paid by the employer.

“(C) AGGREGATION OF PLANS OF EMPLOYER.—A health plan which is not otherwise described in subparagraph (A) shall be treated as described in such subparagraph if such plan would be so described if all health plans of persons treated as a single employer under subsections (b), (c), (m), or (o) of section 414 were treated as one health plan.

“(D) SEPARATE APPLICATION TO HEALTH INSURANCE AND LONG-TERM CARE INSURANCE.—Subparagraphs (A) and (C) shall be applied separately with respect to—

“(i) plans which include primarily coverage for qualified long-term care services or are qualified long-term care insurance contracts, and

“(ii) plans which do not include such coverage and are not such contracts.

“(2) COVERAGE UNDER CERTAIN FEDERAL PROGRAMS.—

“(A) IN GENERAL.—Subsection (a) shall not apply to any amount paid for any coverage for an individual for any calendar month if, as of the first day of such month, the individual is

1 covered under any medical care program de-  
 2 scribed in—

3 “(i) title XVIII, XIX, or XXI of the  
 4 Social Security Act,

5 “(ii) chapter 55 of title 10, United  
 6 States Code,

7 “(iii) chapter 17 of title 38, United  
 8 States Code,

9 “(iv) chapter 89 of title 5, United  
 10 States Code, or

11 “(v) the Indian Health Care Improve-  
 12 ment Act.

13 “(B) EXCEPTIONS.—

14 “(i) QUALIFIED LONG-TERM CARE.—  
 15 Subparagraph (A) shall not apply to  
 16 amounts paid for coverage under a quali-  
 17 fied long-term care insurance contract.

18 “(ii) CONTINUATION COVERAGE OF  
 19 FEHBP.—Subparagraph (A)(iv) shall not  
 20 apply to coverage which is comparable to  
 21 continuation coverage under section  
 22 4980B.

23 “(d) LONG-TERM CARE DEDUCTION LIMITED TO  
 24 QUALIFIED LONG-TERM CARE INSURANCE CON-  
 25 TRACTS.—In the case of a qualified long-term care insur-

1   ance contract, only eligible long-term care premiums (as  
 2   defined in section 213(d)(10)) may be taken into account  
 3   under subsection (a).

4       “(e) DEDUCTION NOT AVAILABLE FOR PAYMENT OF  
 5   ANCILLARY COVERAGE PREMIUMS.—Any amount paid as  
 6   a premium for insurance which provides for—

7           “(1) coverage for accidents, disability, dental  
 8       care, vision care, or a specified illness, or

9           “(2) making payments of a fixed amount per  
 10      day (or other period) by reason of being hospitalized.  
 11   shall not be taken into account under subsection (a).

12      “(f) SPECIAL RULES.—

13           “(1) COORDINATION WITH DEDUCTION FOR  
 14      HEALTH INSURANCE COSTS OF SELF-EMPLOYED IN-  
 15      DIVIDUALS.—The amount taken into account by the  
 16      taxpayer in computing the deduction under section  
 17      162(l) shall not be taken into account under this  
 18      section.

19           “(2) COORDINATION WITH MEDICAL EXPENSE  
 20      DEDUCTION.—The amount taken into account by  
 21      the taxpayer in computing the deduction under this  
 22      section shall not be taken into account under section  
 23      213.

24      “(g) REGULATIONS.—The Secretary shall prescribe  
 25   such regulations as may be appropriate to carry out this

1 section, including regulations requiring employers to re-  
 2 port to their employees and the Secretary such informa-  
 3 tion as the Secretary determines to be appropriate.”.

4 (b) DEDUCTION ALLOWED WHETHER OR NOT TAX-  
 5 PAYER ITEMIZES OTHER DEDUCTIONS.—Subsection (a)  
 6 of section 62 of the Internal Revenue Code of 1986 is  
 7 amended by inserting after paragraph (17) the following  
 8 new item:

9 “(18) HEALTH AND LONG-TERM CARE INSUR-  
 10 ANCE COSTS.—The deduction allowed by section  
 11 222.”.

12 (c) CLERICAL AMENDMENT.—The table of sections  
 13 for part VII of subchapter B of chapter 1 of the Internal  
 14 Revenue Code of 1986 is amended by striking the last  
 15 item and inserting the following new items:

“Sec. 222. Health and long-term care insurance costs.  
 “Sec. 223. Cross reference.”.

16 (c) EFFECTIVE DATE.—The amendments made by  
 17 this section shall apply to taxable years beginning after  
 18 December 31, 2000.

19 **SEC. 5. DEDUCTION FOR 100 PERCENT OF HEALTH INSUR-**  
 20 **ANCE COSTS OF SELF-EMPLOYED INDIVID-**  
 21 **UALS.**

22 (a) IN GENERAL.—Paragraph (1) of section 162(l)  
 23 of the Internal Revenue Code of 1986 is amended to read  
 24 as follows:

1           “(1) ALLOWANCE OF DEDUCTION.—In the case  
 2       of an individual who is an employee within the  
 3       meaning of section 401(c)(1), there shall be allowed  
 4       as a deduction under this section an amount equal  
 5       to 100 percent of the amount paid during the tax-  
 6       able year for insurance which constitutes medical  
 7       care for the taxpayer and the taxpayer’s spouse and  
 8       dependents.”.

9           (b) CLARIFICATION OF LIMITATIONS ON OTHER COV-  
 10      ERAGE.—The first sentence of section 162(l)(2)(B) of the  
 11      Internal Revenue Code of 1986 is amended to read as fol-  
 12      lows: “Paragraph (1) shall not apply to any taxpayer for  
 13      any calendar month for which the taxpayer participates  
 14      in any subsidized health plan maintained by any employer  
 15      (other than an employer described in section 401(c)(4))  
 16      of the taxpayer or the spouse of the taxpayer.”.

17          (c) EFFECTIVE DATE.—The amendments made by  
 18      this section shall apply to taxable years beginning after  
 19      December 31, 2000.

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